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BEFORE THE  
DIVISION OF MEDICAL QUALITY  
MEDICAL BOARD OF CALIFORNIA  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition	)	
to Revoke the Probation of:	)	
	)	No. D1-90-3992
Martin Trujillo, M.D.	)	
401 West Vineyard, #314	)	OAH NO. L-07204
Oxnard, California 93030	)	
	)	
Physician's and Surgeon's	)	
Certificate No. G-32674	)	
	)	
Respondent.	)	

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PROPOSED DECISION

This matter was heard by Humberto Flores, Administrative Law Judge of the Office of Administrative Hearings, in Los Angeles, California, on December 20, 1994.

Robert McKim Bell, Deputy Attorney General, represented the Petitioner. Respondent appeared personally and represented himself.

Oral and documentary evidence was received and the matter was submitted. The Administrative Law Judge finds the following facts:

I

Petitioner, Dixon Arnett, is the Executive Director of the Medical Board of California ("Board") and brings this action solely in his official capacity.

II

On August 3, 1976, the Board issued Physician's and Surgeon's Certificate No. G-32674 to Martin Trujillo M.D., ("petitioner").

### III

On April 10, 1991, a decision in case no. D-4201 became effective which placed respondent's certificate on five years' probation.

### IV

On March 7, 1990, an Accusation was filed against respondent's certificate alleging that he had been convicted of a crime substantially related to the qualifications, functions, or duties of the profession of medicine in violation of Business and Professions Code sections 490, 2236 and 2237. The specifications were that:

A. On or about February 22, 1989, in the District Court of the Fifth Judicial District of the State of Nevada, In and for the County of Nye, in proceedings entitled, The State of Nevada v. Martin Trujillo, case number 1582, the respondent was convicted upon his plea of guilty of the crime of possession of a controlled substance, in violation of Nevada Revised Statutes 453.336, a felony.

B. The count of the criminal information to which the respondent pleaded guilty was Count VII which alleged as follows:

"Philip H. Dunleavy, District Attorney within and for the County of Nye, State of California, informs the Court that Martin Trujillo, on or about the 7th day of February, 1988, and before the filing of this Information, in Nye County, Nevada, did then and there commit the following offense, in the following manner, to wit:

"Count - VII. Possession of Controlled Substance, a Felony in violation of NRS 453.336, in that said Defendant did then and there, wilfully, unlawfully, feloniously, knowingly or intentionally possess a Schedule IV controlled substance as classified by Statute, to wit: Aplrazolam, commonly known as Xanax, without having a valid prescription or order of a physician, dentist, podiatrist, or veterinarian, while acting in the course of his professional practice."

C. Following his conviction, the respondent was sentenced to serve one year in the Nevada State Prison; however, said sentence was stayed and the respondent placed on probation for one year on the conditions, among others, that he pay a fine of \$2,500.00 and serve 100 hours of community service.

V

In a Stipulated Settlement and Disciplinary Order which became effective on April 10, 1991, the respondent admitted the truth of each of the charges in the accusation and stipulated that a decision be issued revoking his license, stayed, on five years' probation upon various terms and conditions, among which were the following:

A. Condition 7 - Diversion Program: "Within 30 days of the effective date of this decision, respondent shall enroll and participate in the Division's Diversion Program until the Division determines that further treatment and rehabilitation is no longer necessary. Quitting the program without permission or being expelled for cause shall constitute a violation of probation by respondent."

B. Condition 8 - Education Courses: "Within ninety (90) days of the effective date of this decision, and on an annual basis thereafter, respondent shall submit to the Division for its prior approval an educational program or course related to pharmacology, which shall not be less than 40 hours per year, for each year of probation. This program shall be in addition to the Continuing Medical Education requirements for re-licensure. Following the completion of each course, the Division or its designee may administer an examination to test respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of continuing medical education of which 40 hours were in satisfaction of this condition and were approved in advance by the Division or its designee."

C. Condition 11 - Quarterly Reports: "Respondent shall submit quarterly declarations under penalty of perjury on forms provided by the Division, stating whether there has been compliance with all the conditions of probation."

VI

Respondent Martin Trujillo, M.D. violated the terms and conditions of his probation in case number D-4201, as follows:

A. Dr. Trujillo has violated Condition number 7 in that he has failed to contact or attempt to enter the Diversion Program.

B. Dr. Trujillo has violated Condition number 8 in that he failed to submit continuing medical education courses or course study.

C. Dr. Trujillo has violated Condition number 11 in that he failed to submit quarterly reports of compliance.

## VII

A. On June 17, 1992, respondent met with his probation surveillance officer. During the meeting respondent received a copy of Decision D-4201, quarterly report forms, and a warning to respondent that a failure to file quarterly reports would violate the terms and conditions of his probation. Respondent initially did not understand the conditions of probation, however, the probation officer explained what was required of respondent to comply with said conditions.

B. On January, 12, 1993, respondent's probation surveillance officer wrote a letter to respondent informing him that he was in violation of conditions 7 and 8 of the Disciplinary Order. Pursuant to the letter, respondent was given until January 29, 1993, to submit a written response indicating that had contacted and entered a Diversion Program and applied for a pharmacology course. Respondent did not reply to the letter within the stated time period.

C. On February 17, 1993, respondent telephoned the probation surveillance officer in an attempt to rectify the situation. However, the probation officer had already decided to refer the matter to the Attorney General to revoke probation. The actual communication to the Attorney general was sent March 3, 1993.

D. In late March 1993, respondent requested another meeting with his probation officer and the meeting was held in April 1993. However, the probation officer informed respondent that he had already sent the request to revoke probation to the Attorney General and that the matter was out of his hands.

## VIII

A. In mitigation, respondent's father had been hospitalized with a terminal illness shortly after the first meeting with his probation surveillance officer. It was during this period that respondent returned to live with his mother to provide her with emotional support.

B. Respondent obtained his certificate in 1976. During the 15 years that he actively practiced medicine, respondent suffered no complaints or malpractice claims.

IX

Respondent has now settled in New Mexico and has applied to the Board of Medical Examiners of New Mexico for certification in that state. Further, respondent has enrolled in the New Mexico Monitored Treatment Program where he will receive therapy and will be subjected to urine testing for chemical dependency.

X

A. It was respondent's obligation to comply with all the conditions of probation. It was also his duty to inform the Board if there was a significant reason for his failure to comply. Rather than informing his probation officer of the his father's illness, respondent chose not to contact the anyone from the Board.

B. Respondent must suffer consequences for his failure to comply with probationary conditions. However, the appropriate discipline to be imposed, should be based on all of the circumstances, including mitigation, efforts made at rehabilitation, and should take into consideration the fact that respondent plans to reside outside of California.

DETERMINATION OF ISSUES

Grounds exist to revoke the order of probation previously imposed in case no. D-4201 for the reasons set forth in findings V, VI and VII.

ORDER

The Petition to Revoke Probation imposed in Case No. D-4201 is granted as follows:

1. Respondent is suspended from the practice of medicine for a period of one (1) year beginning the effective date of this decision. Said period of suspension shall not run during the time respondent is residing outside the jurisdiction of California.

2. Upon the completion of the period of suspension, probation shall be reinstated for a period of five (5) years under the conditions previously set forth in Stipulated Settlement and Disciplinary Order D-4201.

DATED: February 24, 1995

*Humberto Flores*

HUMBERTO FLORES  
Administrative Law Judge  
Office of Administrative Hearings

DANIEL E. LUNGREN, Attorney General  
of the State of California  
ROBERT McKIM BELL,  
Deputy Attorney General  
California Department of Justice  
300 South Spring Street, Suite 5212  
Los Angeles, California 90013  
Telephone: (213) 897-2556  
Attorneys for Petitioner

BEFORE THE  
MEDICAL BOARD OF CALIFORNIA  
DIVISION OF MEDICAL QUALITY  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA

In the Matter of the Petition to	)	NO. D1-90-3992
Revoke the Probation of:	)	
MARTIN TRUJILLO, M.D.	)	PETITION TO REVOKE
401 West Vineyard, #314	)	PROBATION
Oxnard, California 93030	)	
Physician's and Surgeon's	)	[Prior Case D-4201]
Certificate No. G-32674,	)	
Respondent.	)	

The Petitioner alleges:

PARTIES

1. Petitioner, Dixon Arnett, is the Executive Director of the Medical Board of California (hereinafter the "Board") and brings this petition solely in his official capacity.

2. On or about August 3, 1976, Physician's and Surgeon's Certificate No. G-32674 was issued by the Board to Martin Trujillo, M.D. (hereinafter "respondent"). On April 10,

1 1991, a decision in case D-4201 became effective which placed  
2 respondent's certificate on five years' probation.

3  
4 JURISDICTION

5 3. On March 7, 1990, an Accusation was filed against  
6 respondent's certificate alleging that he had been convicted of a  
7 crime substantially related to the qualifications, functions, or  
8 duties of the profession of medicine in violation of Business and  
9 Professions Code sections 490, 2236 and 2237. The specifications  
10 were that:

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12 Court of the Fifth Judicial District of the State of Nevada,  
13 In and for the County of Nye, in proceedings entitled, *The*  
14 *State of Nevada v. Martin Trujillo*, case number 1582, the  
15 respondent was convicted upon his plea of guilty of the  
16 crime of possession of a controlled substance, in violation  
17 of Nevada Revised Statutes 453.336, a felony.

18 B. The count of the criminal information to which the  
19 respondent pleaded guilty was Count VII which alleged as  
20 follows:

21 "Philip H. Dunleavy, District Attorney within and for  
22 the County of Nye, State of California, informs the Court  
23 that Martin Trujillo, on or about the 7th day of February,  
24 1988, and before the filing of this Information, in Nye  
25 County, Nevada, did then and there commit the following  
26 offense, in the following manner, to wit:

27 "Count - VII. Possession of Controlled Substance, a



1 Felony in violation of NRS 453.336, in that said Defendant  
2 did then and there, wilfully, unlawfully, feloniously,  
3 knowingly or intentionally possess a Schedule IV controlled  
4 substance as classified by Statute, to wit: Aplrazolam,  
5 commonly known as Xanax, without having a valid prescription  
6 or order of a physician, dentist, podiatrist, or  
7 veterinarian, while acting in the course of his professional  
8 practice."

9 C. Following his conviction, the respondent was  
10 sentenced to serve one year in the Nevada State Prison;  
11 however, said sentence was stayed and the respondent placed  
12 on probation for one year on the conditions, among others,  
13 that he pay a fine of \$2,500.00 and serve 100 hours of  
14 community service.

15 4. In a Stipulated Settlement and Disciplinary Order  
16 which became effective on April 10, 1991, the respondent admitted  
17 the truth of each of the charges in the accusation and stipulated  
18 that a decision be issued revoking his license, stayed, on five  
19 years' probation upon various terms and conditions, among which  
20 were the following:

21 A. Condition 7 - Diversion Program: "Within 30 days  
22 of the effective date of this decision, respondent shall  
23 enroll and participate in the Division's Diversion Program  
24 until the Division determines that further treatment and  
25 rehabilitation is no longer necessary. Quitting the program  
26 without permission or being expelled for cause shall  
27 constitute a violation of probation by respondent."

1           B.    Condition 8 - Education Courses: "Within ninety  
2           (90) days of the effective date of this decision, and on an  
3           annual basis thereafter, respondent shall submit to the  
4           Division for its prior approval an educational program or  
5           course related to pharmacology, which shall not be less than  
6           40 hours per year, for each year of probation. This program  
7           shall be in addition to the Continuing Medical Education  
8           requirements for re-licensure. Following the completion of  
9           each course, the Division or its designee may administer an  
10          examination to test respondent's knowledge of the course.  
11          Respondent shall provide proof of attendance for 65 hours of  
12          continuing medical education of which 40 hours were in  
13          satisfaction of this condition and were approved in advance  
14          by the Division or its designee."

15          C.    Condition 11 - Quarterly Reports: "Respondent  
16          shall submit quarterly declarations under penalty of perjury  
17          on forms provided by the Division, stating whether there has  
18          been compliance with all the conditions of probation."

19  
20                                   FIRST CAUSE OF ACTION

21                                   (Violation of Probation)

22           5.    Respondent Martin Trujillo, M.D. is subject to  
23           disciplinary action for having violated the terms and conditions  
24           of probation in case number D-4201. The circumstances are as  
25           follows:

26                  A.    Dr. Trujillo has violated Condition number 7 in  
27                  that he has failed to contact or attempt to enter the

1 Diversion Program.

2 B. Dr. Trujillo has violated Condition number 8 in  
3 that he failed to submit continuing medical education  
4 courses or course study.

5 C. Dr. Trujillo has violated Condition number 11 in  
6 that he failed to submit quarterly reports of compliance.

7  
8 COST RECOVERY

9 6. Section 125.3 of the Business and Professions Code  
10 provides, in part, that "except as otherwise provided by law, in  
11 any order issued in resolution of a disciplinary proceeding  
12 before any board within the department . . . , the board may  
13 request the administrative law judge to direct a licensee found  
14 to have committed a violation or violations of the licensing act  
15 to pay a sum not to exceed the reasonable costs of the  
16 investigation and enforcement of the case".

17  
18 PRAVER

19 WHEREFORE, the complainant requests that a hearing be  
20 held on the matters herein alleged, and that following said  
21 hearing, the Board issue a decision:

22 1. Revoking the order of probation previously issued  
23 in case number D-4201 and imposing the disciplinary order that  
24 was stayed;

25 2. Ordering the recovery by the complainant of the  
26 actual and reasonable costs of the investigation and prosecution  
27 of this case;

1                   3.   Taking such other and further action as the Board  
2 deems proper.

3                   DATED: JUNE 6, 1994 .

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7 Dixon Arnett  
8 Executive Director  
9 Medical Board of California  
10 Department of Consumer Affairs  
11 State of California

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Petitioner